

OLC RECORD COPY

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THE DIRECTOR OF CENTRAL INTELLIGENCE

WASHINGTON, D.C. 20505

*Cy OLC 78-5436*

Legislative Counsel

OLC 78-249/E

1 DEC 1978

*ERDA*

Mr. Richard L. Wright, Acting Director  
Office of Congressional Affairs  
Department of Energy  
Washington, D.C. 20585

Dear Rick:

Enclosed are copies of an exchange of letters between the Agency and the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence confirming the requirement for prior Committee approval before matters involved in a confidential exchange with the Committees and their predecessors are publicly released.

These letters were prompted by the concerns that confidential Congressional matters reposing in Agency files may be subject to release under the FOIA/PA laws, despite the fact that these laws do not cover the Congress. We have extended the requirement for prior Congressional approval to cover confidential exchanges by the Agency with all Committees and Members of Congress.

I am bringing this to your attention since you may not have received similar letters from the SSCI and HPSCI and you may wish to implement a similar policy. The need for resolving this problem in order to protect the legitimate interests of the Congress, also focuses Congressional attention on the kinds of problems we in the Community face in trying to protect confidential information subject to release and may generate support for our requests for remedial legislative relief.

Sincerely,

**SIGNED**

Frederick P. Hitz

Enclosures

Distribution:

Orig - Addressee w/encls  
1 - OLC Subject w/encls  
1 - OLC Chron w/o/encls  
OLC:PLC:jms (28 Nov 1978)

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Central Intelligence Agency

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Washington, D.C. 20505

16 NOV 1978

Honorable Birch Bayh, Chairman  
Honorable Barry Goldwater, Vice Chairman  
Select Committee on Intelligence  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairmen:

Thank you for your letter of 19 October requesting that the Agency not disclose publicly any information and documents exchanged by the Agency with your Committee and with its predecessor, the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, unless your Committee first reviews the material and votes for its release.

The possession of such materials in our files presents a serious problem to CIA and undoubtedly to other intelligence agencies in responding to requests under the Freedom of Information and Privacy Acts. Regardless of the fact that the Legislative Branch is not subject to provisions of these Acts, Congressional documents and Congressional information reposing in Agency files become subject to determinations as to releasability. We have recognized your concerns to maintain confidentiality and have invoked your interests whenever Congressional documents or Congressional information become subject to release. For example, your recent letter of 21 September to the Agency concerning the FOIA case of Miller vs. CIA (Q4798) requesting nondisclosure of certain materials of Committee interest has been presented to the court. The matter is still in litigation and we are hopeful that we will prevail.

You may be assured that all information or documents, or any portions thereof, exchanged in confidence between CIA and your Committee, and its predecessor, which are the subject of any outside request for public release, will continue to be submitted to the Committee for prior approval.

Our acceptance of your right to require prior approval is based on our assumption that the Committee will not disclose any documents or information exchanged in confidence between the Committee and CIA without prior Agency approval. To date, the Committee has followed this policy and I would expect that it will be continued in the future. Neither of our interests will be protected unless we both agree to recognize each other's requirements for confidentiality. If there is disagreement, I am confident that in a spirit of cooperation we can resolve our differences.

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This exchange of letters will serve as mutual understanding and assurance that all matters discussed in confidence between us will not be disclosed until both of our interests are given due consideration.

Yours sincerely,

/s/ Stansfield Turner

STANSFIELD TURNER

SENATE SELECT COMMITTEE ON INTELLIGENCE  
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MALCOLM WALLOP, WYO.

SELECT COMMITTEE ON INTELLIGENCE

(PURSUANT TO S. RES. 400, 94TH CONGRESS)

WASHINGTON, D.C. 20510

ROBERT C. BYRD, W. VA., EX OFFICIO  
HOWARD H. BAKER, JR., TENN., EX OFFICIO

WILLIAM G. MILLER, STAFF DIRECTOR  
EARL D. FISCHHOFFER, MINORITY STAFF DIRECTOR

October 19, 1978

IN REPLY PLEASE  
REFER TO Q.# 6.615

Admiral Stansfield Turner  
Director  
Central Intelligence Agency  
Washington, D.C. 20505

Dear Director Turner:

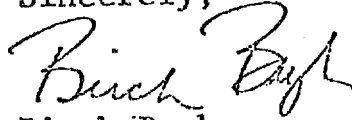
The Senate Select Committee on Intelligence (pursuant to S. Res. 400, 94th Cong.), and its predecessor, the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, (pursuant to S. Res. 21, 94th Cong.) has exchanged with your Agency considerable information and documents of a very sensitive nature. For historical and practical reasons, this exchange of information and documents is an essential part of the consultative and deliberative process between the two branches. It is essential that this process continue if this Committee is to discharge its obligations to the U.S. Senate and the American people. When this Committee completes its work in an area, a determination will be made according to the applicable Senate Rules as to what information can and should be released to the public, after a careful weighing of all the relevant considerations. Consistent with this approach, strict security procedures are in effect for all of the Committee's intelligence records.

The Committee recognizes that from time to time certain congressional materials currently in the physical custody of your Agency, could become the subject of requests by the public for release. For example, the material requested could include material and information originating with this Committee and its predecessor, or material prepared for the Committee in response to its express interests, or any material resulting from specific questions put to your

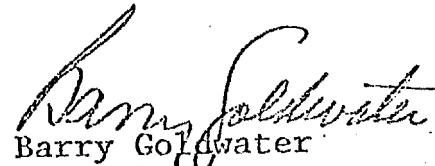
Admiral Stansfield Turner  
Page Two

Agency. It is the Committee's view that Committee material and information should not be disclosed outside of your Agency unless the Committee has reviewed the material and voted release of such material. Should you desire to release any SSCI material for any purpose, we request that you obtain this Committee's approval in writing prior to making such a release.

Sincerely,



Birch Bayh  
Chairman



Barry Goldwater  
Vice Chairman

The Director  
Central Intelligence Agency



Washington, D.C. 20505

8 NOV 1978

Honorable Edward P. Boland, Chairman  
Permanent Select Committee on  
Intelligence  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of October 20, 1978 in which you spelled out the Committee's position with regard to the Halkin vs. Helms case and the discovery request for certain materials originating from your predecessor Committee. I fully concur that communications between the Agency and its oversight committees should and must remain confidential as between them.

Again, I thank you for your helpful letter.

Yours sincerely,  
/s/ Stansfield Turner

STANSFIELD TURNER

The Director  
Central Intelligence Agency



Washington, D.C. 20505

8 NOV 1978

Honorable Edward P. Boland, Chairman  
Permanent Select Committee on  
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Again, I thank you for your helpful letter.

Yours sincerely,  
/s/ Stansfield Turner

STANSFIELD TURNER

CLARENCE J. ZABLOCKI, WIS.  
 BILL D. ZIMMERMAN, MO.  
 MORRIS E. ZIMMERMAN, ILL.  
 J. E. ZIMMERMAN, WIS.  
 CHARLES E. ZIMMERMAN, D.C.  
 NORMAN L. ZIMMERMAN, KY.  
 NORMAN E. ZIMMERMAN, CALIF.  
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J. K. NORTH ROBINSON, VA.

THOMAS R. LATIMER, STAFF DIRECTOR  
MICHAEL J. O'NEIL, CHIEF COUNSEL

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U.S. HOUSE OF REPRESENTATIVES  
PERMANENT SELECT COMMITTEE  
ON INTELLIGENCE

WASHINGTON, D.C. 20515

October 20, 1978

Honorable Stansfield Turner  
Director of Central Intelligence  
Washington, D.C. 20505

Dear Admiral Turner:

This is in response to the letter of Acting Deputy Director John F. Blake relative to a civil suit (Halkin v. Helms, Civil Action No. 75-1773 U.S.D.C., D.C.) wherein discovery is requested of certain materials originating from this Committee's predecessor, the House Select Committee on Intelligence of the 94th Congress. Under the provisions of Sec. 4 of H.Res. 658 of the 95th Congress, these materials are in the custody and control of this Committee.

This Committee is presently reviewing all the materials which it has inherited from its predecessor Committee. Any decision to disclose or release these materials -- which include materials or information originating with the former Select Committee on Intelligence, material prepared for the Committee in response to its express interests and any material resulting from specific questions put to intelligence agencies and officials -- must first be proposed by this Committee. The Committee wishes it clearly understood that no disclosure or release of any of the above described material or information may be made without the express written authorization of this Committee.

A further requirement for disclosure of any information or material which is classified -- as is the material in question -- is found in the provisions of Clause 7, of Rule XLVIII, of the Rules of the House of Representatives, which provides that the House shall determine the final disposition of such questions. While Rule XLVIII does not control in this situation, as Mr. Blake's letter indicates, the general principle that the House should



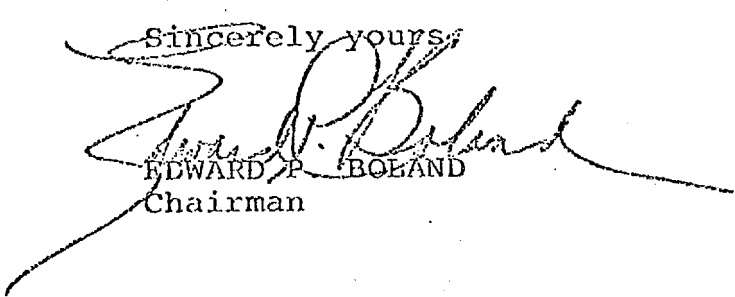
decide policy issues which affect more than just one of its committees is fully apposite. Accordingly, this Committee could not consent to the publication through the mechanism of a civil discovery motion of materials or information taken in executive session without first submitting this issue to the House for resolution of the broader policy issue which is involved.

In any case, such a submission is not required. After examination, this Committee has concluded that publication of the materials in question (transcripts of hearings held on August 4 and 6, 1975) is not appropriate.

The House of Representatives voted 246 to 124 on January 29, 1976, not to publish the final report submitted to the House by the Select Committee on Intelligence. In light of that expression, this Committee feels constrained not to publish the materials which formed the basis for that Committee's conclusions. Rather, this Committee will continue its examination and review of intelligence and intelligence-related activities in light of the materials collected by its investigations and the former Select Committee. When it deems appropriate, this Committee will publish such materials as it feels will further the understanding of the intelligence and intelligence-related activities which it oversees.

With every good wish, I am

Sincerely yours,

  
EDWARD P. BOLAND  
Chairman

TO : Mr. Hitz, via LLM

FROM : PL

28 Nov 1978

SUSPENSE DATE

SUBJECT:

Letters to Legislative Counsels confirming nondisclosure without prior approval

OK-H

NOTES

Attached for your signature are letters to your Community counterparts informing them of our exchange of letters with SSCI and HPSCI confirming we will not disclose confidential exchanges unless we get prior approval.

This is a follow on action that we acknowledged to the Director that we would take.

PLC - sure you need one in Treasury?

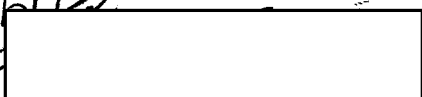
COORDINATED WITH (list names as well as offices)

NAME	OFFICE	DATE
NAME	OFFICE	DATE
NAME	OFFICE	DATE
NAME	OFFICE	DATE

ACTION REQUIRED BY GLC

letters for your signature

STA



VIPS thinks it advisable

to send to Treasury since IRS is continually involved in exchange of documents with them. They should be aware of our policy.